

**UNITED STATES BANKRUPTCY APPELLATE PANEL
FOR THE FIRST CIRCUIT**

BAP No. RI 97-091

**IN RE STEPHEN M. ROTHSCHILD
Debtor**

**GREGORY W. HAMILTON, TRUSTEE
Plaintiff/Appellee**

v.

**STEPHEN M. ROTHSCHILD
Defendant/Appellant**

**Appeal from the United States Bankruptcy Court
for the District of Rhode Island
[Hon. Arthur N. Votolato, Bankruptcy Judge]**

**Before
GOODMAN, LAMOUTTE and HILLMAN, Bankruptcy Judges**

**Peter G. Berman and Raskin & Berman, Providence, Rhode Island, were
on brief for Appellant.**

**Gregory W. Hamilton, Providence, Rhode Island, was on brief for
Appellee.**

March 5, 1998

PER CURIAM. The chapter 7 trustee commenced this adversary proceeding objecting to discharge pursuant to 727(a)(5), alleging that the Debtor had failed to satisfactorily explain what happened to certain jewelry purchased with a credit card and \$25,000 in cash advances. At trial Judge Votolato found the Debtor's testimony credible but found as a fact that the Debtor had failed to explain what happened to the assets. The debtor appealed.

Whether the explanation proffered by the Debtor is satisfactory is a determination of fact and is reviewed for clear error. *In re D'Agnese*, 86 F.3d 732 (7th Cir. 1996). This standard applies to the question of whether debtor has satisfactorily explained the loss of assets. *Id.* See also *In re Hawley*, 51 F.3d 246, 258 (11th Cir. 1995).

“[A] reviewing court ought not to upset findings of fact or conclusions drawn therefrom unless, on the whole of the record, the appellate judges form a strong, unyielding belief that a mistake has been made.” *Brandt v. Repco Printers & Lithographics, Inc. (In re Healthco International, Inc.)*, 132 F.3d 104, 109 (1997) (internal punctuation and citation omitted). We have reviewed the record and the arguments advanced by Debtor's counsel before us and find no error.

We affirm.